

ORDER OF THE SUPREME COURT OF TEXAS

Misc Docket No. 99- 9030

Appointment of a District Judge to Preside
in a State Bar Disciplinary Action

The Supreme Court of Texas hereby appoints the Honorable Anne Ashby, Judge of the 134th District Court of Dallas County, Texas, to preside in the Disciplinary Action styled:

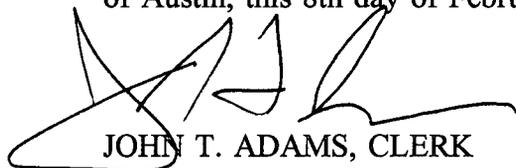
The Commission for Lawyer Discipline v. Robert Areche, Jr.

to be filed in a District Court of Bexar County, Texas.

The Clerk of the Supreme Court shall promptly forward to the District Clerk of Bexar County, Texas, a copy of this Order and of the Disciplinary Petition for filing and service pursuant to Rule 3.03, Texas Rules of Disciplinary Procedure.

As ordered by the Supreme Court of Texas, in chambers,

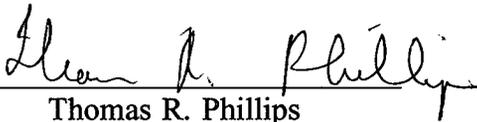
with the Seal thereof affixed at the City
of Austin, this 8th day of February, 1999.

A handwritten signature in black ink, appearing to read 'J. Adams', is written over the printed name of the clerk.

JOHN T. ADAMS, CLERK
SUPREME COURT OF TEXAS

This assignment, made by Misc. Docket No. 99-9030, is also an assignment by the Chief Justice of the Supreme Court pursuant to Texas Government Code §74.057.

Signed this 9 day of February, 1999.


Thomas R. Phillips
Chief Justice

CAUSE NO. _____

COMMISSION FOR LAWYER
DISCIPLINE

V.

ROBERT ARECHE, JR.

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§

IN THE DISTRICT COURT OF

BEXAR COUNTY, TEXAS

___ TH JUDICIAL DISTRICT

PETITIONER'S ORIGINAL DISCIPLINARY PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

Comes now, Petitioner, COMMISSION FOR LAWYER DISCIPLINE, a committee of the State Bar of Texas, complaining of Respondent, ROBERT ARECHE, JR., and in support thereof would respectfully show the Court the following:

Parties

Petitioner is the COMMISSION FOR LAWYER DISCIPLINE, a committee of the State Bar of Texas. Respondent, ROBERT ARECHE, JR., Texas State Bar Number 01299125, is an attorney licensed to practice law in the State of Texas and is a member of the State Bar of Texas. Respondent is a resident of Bexar County, Texas. Respondent may be served with citation and a copy of this petition by serving him at his principal place of business located at **800 Dolorosa, Suite 117, San Antonio, Texas 78207.**

Venue

Respondent's principal place of law practice is in Bexar County, Texas. Accordingly, pursuant to Texas Rules of Disciplinary Procedure 3.03, venue is proper in Bexar County, Texas.

I.

Petitioner brings this disciplinary action pursuant to State Bar Act, Tex. Gov't. Code Ann., Sec. 81.001, et seq. (Vernon 1988), the Texas Disciplinary Rules of Professional Conduct and the Texas Rules of Disciplinary Procedure. The complaint which forms the basis of this action was filed by Dr. Hector X. Samaniego, Jr. on or about May 29, 1998. The acts and conduct of Respondent, as hereinafter alleged, constitute professional misconduct.

II.

1. On or about August 7, 1996, August 23, 1996, October 4, 1996, November 27, 1996, December 18, 1996, December 30, 1996, January 22, 1997, April 25, 1997, April 30, 1997, and June 25, 1997, Respondent received and withheld monies belonging to numerous clients in settlement of their personal injury claims. Respondent represented to these clients that said funds were being withheld to pay Dr. Hector X. Samaniego, Jr. and his company, Trinity Rehabilitation, pursuant to the terms of certain letters of protection from Respondent that had been accepted by Dr. Samaniego relating to his treatment of Respondent's clients' medical injuries.
2. Contrary to Respondent's representations that Dr. Samaniego would be paid out of the settlement funds that had been withheld from the clients, Respondent did not pay Dr. Samaniego for the medical services that had been provided to Respondent's clients. On numerous occasions, Dr. Samaniego made demands for payment under the terms of the letters of protection issued by Respondent; however, Respondent failed to pay Dr. Samaniego the monies owed. Instead, and without the knowledge and/or consent of his clients, Respondent failed to properly safeguard his clients' property by keeping the money that was owed to Dr. Samaniego for his own personal use.

III.

The conduct of Respondent described above constitutes a violation of the following Texas

Disciplinary Rules of Professional Conduct:

Rule 1.14(b) -- Upon receiving funds in which a client or third person has an interest, a lawyer shall promptly deliver to the client or third person any funds that the client or third person is entitled to receive;

Rule 1.14(c) -- When in the course of representation a lawyer is in possession of funds in which both the lawyer and another person claim interests, the property shall be kept separate by the lawyer until there is an accounting and severance of their interest. All funds in a trust account shall be disbursed only to those persons entitled to receive them by virtue of the representation or by law;

Rule 8.04(a)(2) -- A lawyer shall not commit a serious crime or commit any other criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects; and

Rule 8.04(a)(3) -- A lawyer shall not engage in conduct involving dishonesty, fraud, deceit or misrepresentation.

PRAYER

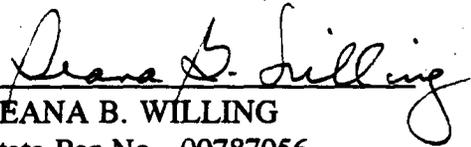
WHEREFORE, PREMISES CONSIDERED, Petitioner prays that a judgment of professional misconduct be entered against Respondent imposing an appropriate sanction as the facts shall warrant and that Petitioner have such other and further relief to which it is entitled, including costs of court, restitution, and reasonable attorney fees.

Respectfully submitted,

Steven W. Young
General Counsel

Seana B. Willing
Assistant General Counsel

Office of the General Counsel
State Bar of Texas
425 Soledad, Suite 300
San Antonio, Texas 78205
Telephone: (210) 271-7881
Telecopier: (210) 271-9642


SEANA B. WILLING
State Bar No. 00787056

ATTORNEYS FOR PETITIONER

STATE BAR OF TEXAS



**CERTIFIED MAIL
RETURN RECEIPT REQUESTED
Z 215 089 737**

**Office of the General Counsel
Regional Office
Soledad Plaza West
425 Soledad, Suite 300
San Antonio, Texas 78205
(210) 271-7881
FAX: (210) 271-9642**

January 5, 1999

John T. Adams, Clerk
Supreme Court of Texas
P.O. Box 12248
Austin, Texas 78711

RE: Commission for Lawyer Discipline v. Robert Areche, Jr.

Dear Mr. Adams:

Enclosed please find an original and three (3) copies of a Disciplinary Petition being filed by the Commission for Lawyer Discipline against Robert Areche, Jr. Mr. Areche has designated **Bexar County** as his principal place of practice. Request is hereby made that the Court appoint an active District Judge who does not reside in the Administrative Judicial Region in which Respondent resides to preside in this case. Upon appointment, request is made that you notify the Respondent at the address shown below and the undersigned of the identity and address of the judge assigned:

Robert Areche, Jr.
800 Dolorosa, Suite 117
San Antonio, Texas 78207

As a practical matter, I would respectfully suggest that you inquire with the judge to be appointed as to: (1) whether he or she will be able to comply with the 180 day deadline by which the case must be set for trial as set forth in Section 3.07 of the Texas Rules of Disciplinary Procedure; and (2) whether he or she can accommodate compliance with Mellon Service Co., et al v. Touche Ross Co., 946 S.W.2d 862 (Tex.App.- Houston [14th Dist.] 1997), which requires that all proceedings incident to a case occur in the county of proper venue. If not, I would respectfully request that an alternate appointment be made.

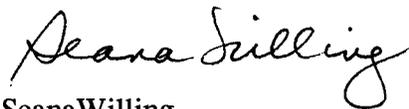
Once a trial judge has been appointed, please forward the original and three (3) copies of the

Disciplinary Petition, the filing fee check, also enclosed herewith, and the Court's appointing order to the District Clerk of Bexar County, Texas, with the request that the suit be filed, service be obtained, and a filemarked copy of the petition returned to the undersigned.

Also enclosed are a pre-addressed envelope for your use in transmitting the petition, etc., to the District Clerk of Bexar County, Texas and a return envelope to be sent to the District Clerk of Bexar County, Texas, for the Clerk's use in returning a filemarked copy of the petition to the undersigned.

Thank you for your courtesies in this matter.

Sincerely,

A handwritten signature in cursive script that reads "Seana Willing". The signature is written in black ink and is positioned above the typed name.

Seana Willing
Assistant General Counsel

Enclosures

SBW/cah



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE
THOMAS R. PHILLIPS

POST OFFICE BOX 12248 AUSTIN, TEXAS 78711

TEL: (512) 463-1312

FAX: (512) 463-1365

CLERK
JOHN T. ADAMS

JUSTICES
NATHAN L. HECHT
CRAIG T. ENOCH
PRISCILLA R. OWEN
JAMES A. BAKER
GREG ABBOTT
DEBORAH G. HANKINSON
HARRIET O'NEILL
ALBERTO R. GONZALES

EXECUTIVE ASS'T
WILLIAM L. WILLIS

DEPUTY EXECUTIVE ASS'T
JIM HUTCHESON

ADMINISTRATIVE ASS'T
NADINE SCHNEIDER

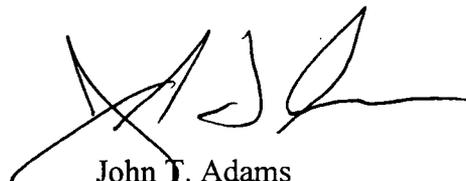
FEB 17 1999

The Honorable Reagan Greer
District Clerk of Bexar County
100 Dolorosa Street
San Antonio, Texas 78205-1205

Dear Mr. Greer:

Pursuant to Rule 3.03 of the Texas Rules of Disciplinary Procedure, I am sending for filing State Bar of Texas Disciplinary Action styled: *The Commission for Lawyer Discipline v. Robert Areche, Jr.*, and a copy of the Supreme Court's order appointing the Honorable Anne Ashby, Judge of the 134th District Court, Dallas, Texas, to preside in this Disciplinary Action.

Sincerely,



John T. Adams
Clerk

cc: Hon. Anne Ashby
Mr. Robert Areche, Jr.
Ms. Seana Willing



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE
THOMAS R. PHILLIPS

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JIM HUTCHESON

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NADINE SCHNEIDER

FEB 17 1999

Honorable Anne Ashby
Judge, 134th District Court
George L. Allen Sr. Courts Building
600 Commerce Street
Dallas, Texas 75202

Dear Judge Ashby:

We enclose for your information a copy of the order of assignment, a copy of the Disciplinary Action, a copy of the notification letter to Mr. Areche and Ms. Willing, and a copy of the letter to the District Clerk of Bexar County.

It is recommended that, six to eight weeks after receipt of this letter, you or your coordinator contact the Bexar County Administrative Office (210-335-2300) to find out the district court to which this disciplinary case has been assigned, names and addresses of counsel, etc. We then recommend that, either before or immediately after you set the case for trial, you contact the Presiding Judge of the Administrative Judicial Region into which you have been assigned (210-769-3519) to reserve a courtroom, obtain a court reporter, obtain claims forms for your expenses incident to presiding over this disciplinary case.

Sincerely,

A handwritten signature in black ink, appearing to be "John T. Adams".

John T. Adams
Clerk



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE
THOMAS R. PHILLIPS

POST OFFICE BOX 12248 AUSTIN, TEXAS 78711

TEL: (512) 463-1312

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JIM HUTCHESON

ADMINISTRATIVE ASST
NADINE SCHNEIDER

FEB 17 1999

Ms. Seana Willing
Assistant General Counsel, State Bar of Texas
425 Soledad, Suite 300
San Antonio, Texas 78205

Mr. Robert Areche, Jr.
800 Dolorosa, Suite 117
San Antonio, Texas 78207

Dear Ms. Willing and Mr. Areche:

Pursuant to Rule 3.02 of the Texas Rules of Disciplinary Procedure, I hereby notify you that the Supreme Court of Texas has appointed the Honorable Anne Ashby, Judge of the 134th District Court, Dallas, Texas to preside in

Commission for Lawyer Discipline v. Robert Areche, Jr.

Sincerely,

A handwritten signature in black ink, appearing to read "John T. Adams".

John T. Adams
Clerk